

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

RMAIL LIMITED,	)	
	)	Civil Action No. 2:10-CV-258-JRG
	)	(Lead Case)
Plaintiff,	)	
	)	Hon. Rodney Gilstrap
v.	)	
	)	
AMAZON.COM, INC., et al.	)	
	)	
Defendants.	)	
	)	

**RPOST HOLDINGS INC.'S, RPOST COMMUNICATIONS LIMITED'S,  
AND RMAIL LIMITED'S OPPOSED MOTION TO STRIKE NOTICE OF LIEN**

---

RPost Holdings, Inc., RPost Communications Limited, and RMail Limited (collectively, the "RPost Plaintiffs") file this Opposed Motion To Strike Notice of Lien (Dkt. No. 550) filed by non-party Kenneth Barton against RPost International Limited. In support of their Motion, the RPost Plaintiffs respectfully show the following:

**I. ARGUMENT**

This consolidated case consists of the following seven member cases:

1. *RMail Ltd. v. Amazon.com, Inc. et al.*, No. 2:10-cv-258-JRG;
2. *RPost Holdings, et al. v. Canada Post Corporation, et al.*, No. 2:11-cv-6-JRG;
3. *RPost Holdings, Inc. et al. v. Readnotify.com Pty Ltd. et al.*, No. 2:11-cv-16-JRG;
4. *RPost Holdings, Inc. et al. v. Zix Corp.*, No. 2:11-cv-64-JRG;
5. *RMail Ltd. et al. v. DocuSign, Inc.*, No. 2:11-cv-299-JRG;
6. *RMail Ltd. et al. v. Right Signature, LLC et al.*, No. 2:11-cv-300-JRG; and
7. *RPost Holdings, Inc. et al. v. Adobe Sys. Inc. et al.*, No. 2:11-cv-325-JRG.

RPost International Limited was only a party to three of these cases, all of which have been dismissed: (1) No. 2:11-cv-6 on October 16, 2012 (Dkt. No. 170) (2) No. 2:11-cv-16 on July 17, 2013 (Dkt. No. 526) and (3) 2:11-cv-64 on April 15, 2013 (Dkt. No. 351). RPost International is not a party nor has it ever been a party to the three pending actions: (1) 2:11-cv-299 (2) 2:11-cv-300 and (3) 2:11-cv-325.

As stated in paragraph 5 of the Notice, only RPost International is subject to Mr. Barton's alleged right of attachment. The basis of the Notice is a Superior Court of California judgment in favor of Mr. Barton against RPost International. RPost International is the only RPost entity named in the judgment. In fact, the Superior Court of California has already determined that Mr. Barton does not have a right to collect against the assets of RPost Communications or RMail Limited:

THE COURT: What does change is that Mr. Barton cannot seek directly the specific assets of RComm [RPost Communications Limited] and RMail [RMail Limited], as we stand right now, to collect. Your concern is that a big asset, of course, is the intellectual property, and that's no longer held by RPost International. Actually, it was never held by RPost International. We litigated this case, and the ownership of that intellectual property has always been taken in the name of another entity despite the, understood, the thorny and rather circuitous method of financing that purchase.

(See Ex. A to Hudnell Declaration, *Barton v. RPost Int'l Ltd.*, No. YC61581 (Cal. Super., Rice, J.), Reporter's Transcript of Proceedings, August 30, 2013 at 60:23-61:6).

Because RPost International is no longer a party to this case, there is "no cause of action of [RPost International] that is the subject of this action or proceeding and to that person's rights to money or property under any judgment subsequently procured in this action or proceeding" as recited in paragraph 7 of the Notice. The Notice is baseless, defective on its face, prejudicial to the RPost Plaintiffs, and has no bearing on the pending litigations. The Notice further

improperly interferes and clouds the eventual resolution of the pending litigations, either through trial or settlement. As such, the Notice should be stricken in the interest of justice.

## **II. CONCLUSION**

For the above mentioned reasons, the RPost Plaintiffs respectfully request that the Court strike the Notice of Lien by Kenneth Barton (Dkt. No. 550) in its entirety.

Respectfully Submitted,

Dated: October 2, 2013

/s/ Lewis E. Hudnell, III  
Winston O. Huff  
State Bar No. 24068745  
Deborah Jagai  
State Bar No. 24048571  
W. O. Huff & Associates, PLLC  
302 Market Street, Suite 450  
Dallas, Texas 75202  
214.749.1220 (Firm)  
469.206.2173 (Facsimile)  
[whuff@huffip.com](mailto:whuff@huffip.com)  
[djagai@huffip.com](mailto:djagai@huffip.com)

Lewis E. Hudnell, III  
Colvin Hudnell LLP  
375 Park Avenue  
Suite 2607  
New York, New York 10125  
Tel: 212.634.6844  
Fax: 347.772.3034  
[lewis@colvinhudnell.com](mailto:lewis@colvinhudnell.com)

ATTORNEYS FOR RPOST PLAINTIFFS

**CERTIFICATE OF CONFERENCE**

I certify that I have attempted to confer in good faith with counsel for Mr. Barton regarding the Notice of Lien as follows:

On September 10, 2103, I emailed counsel for Mr. Barton objecting to the Notice of lien and requested that Mr. Barton's counsel withdraw it or meet and confer in advance of this Motion. On September 13, 2013, I provided a substantive responses to questions received from Mr. Barton's counsel regarding RPost's request. On September 17, 2013, I conducted a telephonic meet and confer with Mr. Barton's counsel and provided substantive responses to further questions regarding RPost's request. On September 25, 2013, I again emailed Mr. Barton's counsel asking whether Mr. Barton will agree to withdraw the Notice of Lien. Having received no response, RPost assumes that Mr. Barton will not agree to withdraw the Notice of Lien and therefore RPost files this Motion as Opposed.

/s/ Lewis E. Hudnell, III

Lewis E. Hudnell, III

**CERTIFICATE OF SERVICE**

I certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 2nd day of October, 2013.

/s/ Lewis E. Hudnell, III

Lewis E. Hudnell, III